



REASON: There is reasonable necessity to amend ARM 24.150.501 to delete sections (5) and (6) to bring the rule into compliance with the provisions of Chapter 224, Laws of 2003 (Senate Bill 109), which passed the last legislative session and became effective July 1, 2003. The legislation eliminated the "failure of two successive practical examinations" provision in 37-16-403(2), MCA.

24.150.2201 CONTINUING EDUCATION REQUIREMENTS (1) and (2) remain the same.

(3) Continuing education courses recognized by the board pertaining to fitting and dispensing hearing aids include those sponsored by the Montana hearing aid society, the national institute for hearing instruments studies, the American speech language hearing association, the American conference of audioprosthology, the Montana speech and hearing association, the academy of dispensing audiologists, the American academy of audiology, college courses and other such programs approved by the board.

(4) through (8) remain the same.

AUTH: 37-1-319, 37-16-202, MCA

IMP: 37-1-306, ~~37-16-404,~~ MCA

REASON: The Board has determined that there is reasonable necessity to make these two additions in order to fulfill the Board's obligation pursuant to 37-1-306, MCA, to provide cost-efficient and geographically accessible continuing education. The Board has determined that because of the quality of their courses and presentation, these additional two sponsors provide meaningful continuing education to licensees, and thus help protect the public by enhancing skills and knowledge of the profession. Additionally, there is reasonable necessity to amend the citations to the authority and implementation statutes to appropriately reflect the basis of the Board's rule, as articulated in the statement of reasonable necessity.

24.150.2301 UNPROFESSIONAL CONDUCT (1) through (12) remain the same.

(13) performing services outside of the licensee's area of training, expertise, competence or scope of practice or licensure, including but not limited to:

(a) the purposeful removal of cerumen from a patient's ear is unprofessional conduct;

(14) through (23) remain the same.

AUTH: 37-1-131, 37-1-319, 37-16-202, MCA

IMP: 37-1-131, 37-16-202, 37-16-411, MCA

REASON: The Board finds there is reasonable necessity to amend this rule because patients have been complaining about problems stemming from licensees removing cerumen ["ear wax"] from the patient's ears. The Board believes that the proposed amendment will eliminate the complaints while enhancing the

protection of the public. In addition, there is reasonable necessity to amend the authorization and implementation citations to more accurately reflect the basis for the Board's duty and authority to engage in rulemaking concerning the conduct of licensees.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsddhad@state.mt.us](mailto:dlibsddhad@state.mt.us) and must be received no later than 5:00 p.m., September 18, 2003.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/had>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official version of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Hearing Aid Dispensers maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices regarding all Board of Hearing Aid Dispensers administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsddhad@state.mt.us](mailto:dlibsddhad@state.mt.us) or may be made by completing a request form at any rules hearing held by the agency.

7. The Board of Hearing Aid Dispensers anticipates meeting subsequent to receipt of transcript and all written commentary to consider those comments and testimony before taking final action on the proposed amendments. Members of the public are welcome to attend the meeting and to listen to the Board's deliberations.

8. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

9. The bill sponsor requirements of 2-4-302, MCA, apply and have been fulfilled.

BOARD OF HEARING AID DISPENSERS  
DAVID KING, CHAIRMAN

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State August 4, 2003.